

Remarks

This Response is considered fully responsive to the Non-Final Office Action mailed 29 January 2008. Claims 1-7, 9 and 14-29 were pending in this application. In this Non-Final Office Action the Examiner has subjected claims 18-29 to a restriction requirement, and constructively withdrew claims 18-29. Claim 1 has been amended for clarity, claims 18-29 are hereby canceled and new claims 30-41 have been added. Therefore claims 1-7, 9, 14-17, and 30-41 remain pending. Reconsideration of the subject application is respectfully requested.

Election / Restrictions

The Examiner required restriction to one of the following inventions under 35 U.S.C. 121: Group I: Claims 1-7, 9, and 14-17 or Group II: Claims 18-29. The examiner constructively selected Group I as directed toward the invention as originally presented for prosecution on the merits. Therefore, the Examiner withdrew Group II from consideration as being directed to a non-elected invention. The Applicant has filed divisional application 12/050,648 based on the present application and directed toward the subject matter claimed in Group II. Therefore, the Applicant requests that claims 18-29 be cancelled in the present application. Further, the Applicant elects Group I without traverse.

35 U.S.C. § 102 Rejection, Garcia

Claims 1-7, 9 and 14-17 have been rejected under 35 U.S.C. § 102(e) as being anticipated by US Publication No. 2006/0271705 to Garcia-Luna-Aceves (hereinafter “Garcia”). The Applicant respectfully disagrees with the Examiner’s characterization of Garcia.

Garcia relates in part to a system for “determining which of a number of available information object repositories should service a client . . .” (Garcia [0039]). The selected information object repository is determined based on advertised distances that are computed as a function of specified performance metrics (Garcia, Abstract). For example, “[a] Web router is informed by its local Web caches of the load in the Web caches and the information objects stored in the Web caches.” The Web router then “selects the nearest Web cache storing a copy of an information object by comparing the local distance to the information object . . . with the reported matches of object identifiers to Web caches reported by its neighbor Web routers” (Garcia [0086]). In order to perform this selection, “Web routers maintain the minimum-hop

distance to each Web router . . . that is co-located with a Web cache that has the best TOS distance to a set of client destinations” (Garcia [0092]) (emphasis added).

By contrast, claim 1 recites in part “for each cache server system having a load characteristic that exceeds a predefined metric, discontinuing advertising of the common address by the associated DNS device” (emphasis added). As presently understood by the Applicant, Garcia teaches that “Web routers maintain the minimum-hop distance to each . . . Web router that is co-located with a web cache . . .” (Garcia [0092]). Each Web router is “informed by its local Web caches of the load in the Web caches and the information objects stored in the Web caches” (Garcia [0086]). In order for a Web router of Garcia to maintain the minimum-hop distances to every web router co-located with Web caches and select among them, the co-located routers must advertise themselves to the Web router. Garcia does not teach or suggest discontinuing advertising co-located Web caches, presumably because such discontinuing of advertising would be inconsistent with the system’s intended operation. Accordingly, Garcia neither teaches nor suggests at least one element of independent claim 1.

Therefore, the Applicant respectfully requests that the rejection of independent claim 1 be withdrawn. Further, the Applicant respectfully requests that the rejections of dependent claims 2-7, 9, and 14-17 be withdrawn based at least on the patentability of claim 1, from which they depend.

The examiner also asserts that Garcia teaches claim 14 based again on Garcia [0086]. The applicant respectfully disagrees. Claim 14 asserts in part “restarting advertising when the load characteristic decreases below the predefined overload metric.” “Restarting advertising”, as contemplated by the present application and asserted in claim 14, necessarily follows “discontinuing advertising” as asserted in claims 1 and 14. Therefore, for the reasons stated above, the Applicant asserts that Garcia does not teach the elements of claim 14. Accordingly, the Applicant respectfully requests that the rejection of claim 14 be withdrawn.

New Claims

New claims 30 – 41 have been added. No new matter has been introduced by the addition of these new claims. The new claims are believed to be allowable for at least the reasons provided above.

Conclusion

Claims 1-7, 9, 14-17, and 30-41 are currently pending in the application. Applicant believes that claims 1-7, 9, 14-17, and 30-41 are in a condition for allowance. Applicant therefore requests that a timely Notice of Allowance be issued in this case.

The Commissioner is authorized to deduct any additional fees from or credit any overpayment to the undersigned's account no. 503199.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney. If the Examiner believes any issues could be resolved via a telephone interview, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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